

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Marco GENTILE et al.

Serial Number: 08/894,733



Art Unit: 1205
Examiner: Phyllis G. Spivack

Filed: August 27, 1997

For: PARENTERAL PHARMACEUTICAL COMPOSITIONS CONTAINING
AMMONIUMALKYL SALTS OF 2-ARYLPROPIONIC ACIDS

DECLARATION UNDER 37 CFR 1.132

Honourable Commissioner
of Patents and Trademarks
Washington, D.C. 20231

Dear Sirs,

I, Gaetano CLAVENNA, Biologist, declare and state as follows:

that I am familiar with the Office Action dated March 24, 1998 regarding the above-identified application;

that I am also familiar with the Examiner's relying on WO 94/20449 application in the rejection of the claims in the above-identified application;

that I am R & D Director of the Research Laboratories of Dompé SpA since 1993 up 1997 and as General Manager since 1997;

that under my supervision and direction experiments have been carried out on the compositions according to the above identified patent application comparing them to the same compositions to which alcoholic solvents, such as benzyl alcohol, have been added. The HPLC analysis carried out on both type compositions, after having exposed to the sun light for a four hour period, showed, in both graphs, the presence of the peaks corresponding to ketoprofen degradation products while in the HPLC graphs of both compositions, without and with benzyl alcohol, taken at the time 0, those peaks, corresponding to the ketoprofen degradation products, were absent. At the time 0, both compositions, without and with benzyl alcohol, had a clear appearance; after a four hour period exposure to the sun light the composition of the above identified patent application to which benzyl alcohol had been added, maintained its clear appearance while the composition of the above identified patent application gained and opalescent appearance advising that the solution itself was not anymore suitable for administration. In the Table are listed the comparison data referred to the solution appearance and to the corresponding transmittance after 0 hour and after 4 hour of exposition in the sun light of the composition described in Example 1 of the above identified patent application, indicated as 'composition A' and of the composition of Example 1 to which benzyl alcohol had been added, indicated as 'composition B'.

Table

| | | hr. | %T | %T on T ₀ | Solution Appearance |
|---------------|----------|-----|-------|----------------------|---------------------|
| Composition A | Sample 1 | 0 | 103.9 | 100.0 | clear |
| | | 4 | 53.6 | 51.6 | opalescent |
| | Sample 2 | 0 | 103.9 | 100.0 | clear |
| | | 4 | 53.4 | 51.4 | opalescent |
| Composition B | Sample 1 | 0 | 100.9 | 100.0 | clear |
| | | 4 | 99.9 | 99.0 | clear |
| | Sample 2 | 0 | 99.8 | 100.0 | clear |
| | | 4 | 99.2 | 99.4 | clear |

that the results of this experiments as set forth below, generated from these experiments, should be considered to be supplemental to the description set forth in the specification of the above identified patent application, and should be read cumulatively therewith;

that I am a co-inventor of the International Patent application WO 94/20449 and I know that the possible pharmaceutical compositions which may be prepared with the enantiomeric salts therein described, would have reasonably been formulated according to the traditional way and thus in admixture "with suitable pharmaceutically acceptable excipients" which, should the active principle considered undergo alteration, reasonably include preservative substances such as benzyl alcohol;

that I, Gaetano CLAVENNA the undersigned declarant, declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001, of Title 18 of the United States Code, and that such wilful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this Gaetano Clavenna day of 16 June, 1998